

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Kevin T. Whitley, Karl B. Warfel, and Arthur M. Shand

**Serial No.:** 09/647,028

**Examiner:**

**Int. Application No.:** PCT/US99/06429

**Int. Filing Date:** March 24, 1999

**Group Art Unit:**

**Priority Date:** March 24, 1998

**For:** WIRELESS TELEMETRY METHODS AND SYSTEMS FOR  
COMMUNICATING WITH OR CONTROLLING INTELLIGENT  
DEVICES

**DECLARATION OF KAREN D. STARK**

1. My name is Karen D. Stark, and my principal residence is at 530 Shane Circle in Winter Springs, Florida 32708. I was formerly employed as a paralegal in the Atlanta, Georgia office of the law firm of Kilpatrick Stockton, LLP, Suite 2800, 1100 Peachtree Street, Atlanta, Georgia 30309 ("Kilpatrick Stockton"). My employment with Kilpatrick was between approximately April 23, 1999 through May 1, 2002.

2. On March 8, 2001, the United States Patent and Trademark Office (PTO) mailed Kilpatrick Stockton a Notification of Missing Requirements Under 35 U.S.C. 371 along with a Notification of a Defective Oath or Declaration for U.S. Patent Application Serial No. 09/647,028.

3. In response to the PTO's Notifications, I attempted to locate inventor Kevin T. Whitley ("Mr. Whitley") on numerous occasions up to May 1, 2002; however, to my knowledge, Mr. Whitley was never located during any of my attempts or by any other person at Kilpatrick Stockton.

4. I personally contacted Ms. Nancy Woodard at BellSouth Intellectual Property Management Corporation, who informed me that Mr. Whitley no longer worked at BellSouth Corporation. Ms. Woodard then confirmed with me Mr. Whitley's last known address and telephone number.

5. I personally made an attempt to present a complete copy of the application papers to Mr. Whitley by a letter mailed to Mr. Whitley's last known address on December 19, 2001. See Exhibit A (also known as Exhibit 4 to the Declaration of John M. Briski, submitted on May 20, 2002). However, the letter and enclosed application papers were returned via U.S. mail indicating that Mr. Whitley never received the letter or application papers.

6. I personally made an attempt to contact Mr. Whitley via telephone at his last known telephone number; however, the party answering the call to the last known telephone number was not Mr. Whitley and was unaware of Mr. Whitley's identity or the whereabouts of Mr. Whitley.

7. At the time I attempted to locate Mr. Whitley, there was no known electronic mail address for Mr. Whitley.

8. At the time I attempted to locate Mr. Whitley, there was no known facsimile number for Mr. Whitley.

9. At the time I attempted to locate Mr. Whitley, there was no known family, friends, or former co-workers that knew of Mr. Whitley's whereabouts.

10. Due to my lack of success in trying to locate Mr. Whitley, Mr. Whitley is considered a missing inventor.

Pursuant to and in accordance with 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15 day of August, 2002.


  
Karen D. Stark

Exhibit A

December 19, 2001

direct dial 404 685 6761  
KStark@KilpatrickStockton.com

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Kevin Thomas Whitley  
5030 Oak Hollow Drive  
Acworth, Georgia 30102

Re: United States Patent Application No. 09/434,072  
**Wireless Telemetry Methods and Systems for Communicating With  
or Controlling Intelligent Devices**  
Inventors: Kevin Whitley, Karl Warfel, Arthur Shand  
BellSouth Ref: 98018  
Our Ref: 36968/176363

**Action Requested: Review, and if appropriate, execution of the enclosed formal  
papers, or in the alternative, a response regarding the non-execution of the  
formal papers by January 15, 2002.**

Dear Mr. Whitley:

We request your further assistance with the prosecution of the above-identified patent application. In sum, we seek your review, and if appropriate, execution of the formal papers associated with this application. We have provided mailing materials for return of the information to us. Details are provided below.

Discussion

The above-identified patent application entered into the national phase of prosecution with the United States Patent and Trademark Office (USPTO) on September 25, 2000. A copy of the application and preliminary amendment is enclosed for your reference. We need your assistance in review and execution, if appropriate, of the formal papers associated with this application.

Mr. Kevin Thomas Whitley  
December 19, 2001  
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*Combined Declaration for Patent Application and Power of Attorney*

To complete the requirements for this application, a *Combined Declaration for Patent Application and Power of Attorney* (DEC/POA) needs to be submitted to the USPTO. The DEC/POA is a document to be executed by the inventors. We have enclosed a DEC/POA for your review, and if appropriate, execution.

The DEC/POA contains several statements to be confirmed by your signature of the document. Among those statements, the DEC/POA includes the following:

- "I believe I am an original, first and joint inventor of the subject matter...."
- "I ... have reviewed and understand the contents of the ... specification [application]...."
- "I acknowledge the duty to disclosure information which is material to the patentability of this application [to the USPTO]...."
- "I ...appoint [certain attorneys of Kilpatrick Stockton LLP] ... to prosecute this application ... [in the USPTO]."
- "I acknowledge the ... attorneys ... [of Kilpatrick Stockton LLP] to represent my employer ...or the entity with which I have contracted...."

By executing the DEC/POA, you are declaring all of the statements in it to be true. If you have any questions regarding the statements in the DEC/POA, you are invited to contact the undersigned, and a response to your question will be obtained from the appropriate source.

*Return of the Materials*

We would appreciate return of the executed DEC/POA at your early convenience. Please respond by returning the signed DEC/POA to us in the enclosed pre-addressed United States Express Mail envelope by **January 15, 2002**.

*Refusal to Sign the DEC/POA*

It may be that you refuse to sign the DEC/POA. We would appreciate an indication of such refusal, and if appropriate, an explanation of the refusal. You may provide the

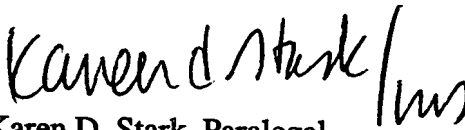
Mr. Kevin Thomas Whitley  
December 19, 2001  
Page 3

indication and an explanation on the attached form and return them to us in the mailing materials.

Conclusion

Thank you for your assistance in reviewing this letter and the enclosed materials. We hope to receive the executed DEC/POA (or an indication and an explanation of a refusal to make the execution) at your early convenience. If you should have any questions, please do not hesitate to call.

Very truly yours,

  
Karen D. Stark, Paralegal

KDS/  
Enclosures

cc w/o encls.: Ms. Nancy F. Woodard  
John M. Briski, Esq.  
Odessa Roberts, Paralegal

Mr. Kevin Thomas Whitley  
December 19, 2001  
Page 4

Re: United States Patent Application No. 09/434,072  
**Wireless Telemetry Methods and Systems for Communicating With  
or Controlling Intelligent Devices**  
Inventors: Kevin Whitley, Karl Warfel, Arthur Shand  
BellSouth Ref: 98018  
Our Ref: 36968/176363

- ☐ The executed DEC/POA are enclosed.
- ☐ I refuse to sign the DEC/POA.
- ☐ I refuse to sign the DEC/POA because:

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Date

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Kevin Thomas Whitley

Inventors: Kevin T. Whitley, Karl B. Warfel, and Arthur M. Shand

Declaration for: Wireless Telemetry Methods and Systems for Communicating with or Controlling Intelligent Devices

BS No. 98018 KS No. 36968/176363

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## DECLARATION FOR PATENT APPLICATION

☒ Original

☐ Supplemental

☐ Substitute

☐ PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Wireless Telemetry Methods and Systems for Communicating with or Controlling Intelligent Devices**

(Title of the Invention)

the specification of which (check one)

☐ is attached hereto

☒ was filed on 3/24/1999 as U. S. Application Serial Number or PCT

International Application Number PCT/US99/06429

and was amended by a Preliminary Amendment filed on September 25, 2000 along with transmittal of an application in the United States under 35 U.S.C.371

(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 (a) - (d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Applications			Priority Claimed		Copy Attached	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below and claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application(s) designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to

Inventors: Kevin T. Whitley, Karl B. Warfel, and Arthur M. Shand

Declaration for: Wireless Telemetry Methods and Systems for Communicating with or Controlling Intelligent Devices

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patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Parent Application Number	Filing Date	Status (Mark Appropriate Column Below)		
		Patented	Pending	Abandoned
60/079,215	March 24, 1998			X

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

FIRM NAME: KILPATRICK STOCKTON LLP, 1100 Peachtree Street, Suite 2800,  
Atlanta, Georgia 30309-4530

Customer No.  
30314

Attorney and/or Agent	Registration No.
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Christopher J. Chan	44,070
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Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
John M. Briski	44,562
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J. Michael Boggs	46,563
Michael K. Dixon	46,665
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Kristin D. Mallatt	46,895
Cynthia B. Rothschild	47,040
John C. Alemanni	47,384
Geoffrey K. Gavin	47,591
Janina Malone	47,768
Robert M. Stevens	47,972
Christopher L. Bernard	P48,234

Inventors: Kevin T. Whitley, Karl B. Warfel, and Arthur M. Shand

Declaration for: Wireless Telemetry Methods and Systems for Communicating with or Controlling Intelligent Devices

BS No. 98018 KS No. 36968/176363

Page 3

Attorney and/or Agent	Registration No.
Yoncha L. Kundupoglu	41,130
Scott Zimmerman	41,390

Attorney and/or Agent	Registration No.
Laura M. Kelley	P48,441
Michael A. Bush	P48,893

I acknowledge the above-listed attorneys and agents and their firm Kilpatrick Stockton LLP represent my employer (if I am an employee and this application has been or will be assigned to my employer) or the entity with which I have contracted (if I am an independent contractor and this application has been or will be assigned to such entity) and in such cases do not represent me individually. I further acknowledge I have not established, nor will I seek to establish, any personal attorney/client relationship with Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

Send Correspondence to: John S. Pratt, Esq.  
Kilpatrick Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309-4530

Customer No. 30314

Direct telephone calls to: John M. Briski (404) 532-6908

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Kevin T. Whitley

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_

Residence 5030 Oak Hollow Drive, Acworth, GA 30102

Citizenship U.S.A.

Post Office Address Same

Full name of second inventor Karl B. Warfel

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_

Residence 1296 Pinehurst Road, Greyson, GA 30017

Citizenship U.S.A.

Post Office Address Same

Full name of third inventor Arthur M. Shand

Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_

Residence 10881 Big Canoe, Big Canoe, GA 30143

Citizenship U.S.A.

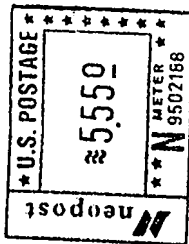
Post Office Address Same



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ST-CLASS

FIRST-CLASS



# FIRST CLASS MAIL

**KILPATRICK  
STOCKTON LLP**

Enmark  
Suite 2800 1100 Peachtree St.  
Atlanta GA 30309

MR. KEVIN THOMAS WHITLEY  
5030 OAK HOLLOW DRIVE  
ACWORTH, GEORGIA 30092

REASON CHECKED  
Unclaimed  
Attempted for known  
Insufficient address  
No such street  
No such office in state  
Do not remain in this office

RETURNED TO SENDER  
REASON CHECKED  
Unclaimed  
Attempted for known  
Insufficient address  
No such street  
No such office in state  
Do not remain in this office

FIRST NOTICE  
DEC 20 '01  
SECOND NOTICE